IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT HYDERABAD

THE HON'BLE SRI JUSTICE GOPALAKRISHNA TAMADA

Writ Petition No.12795 of 1998

Dated: 20-03-2007

Between:

1. Putta Subbanna, s/o Veeraiah,
aged about 40 years,
r/o Ranipet,
Venkatagiri town,
Nellore District and 4 others.

... Petitioners

and

1. The Commissioner of Land Revenue,
Government of Andhra Pradesh,
Nampally Station Road,
Hyderabad and another.

... Respondents

ORDER:

Heard learned counsel for the parties.

2. Petitioners state that they are landless poor persons and on their applications, the Mandal Revenue Officer, Venkatagiri granted D-Form pattas and they have been enjoying the said lands without any interruption. They further state that while so, the Sub Collector without any reason

whatsoever cancelled the pattas by order dated 19-09-1986 and thereupon they filed a writ petition which was disposed of by this Court directing them to file an appeal before the Joint Collector, Nellore and accordingly they filed an appeal.

The Joint Collector, Nellore vide order dated 28-08-1990 dismissed the appeal confirming the order of the Sub Collector, Gudur. Assailing the said order, they preferred revision before first respondent –Commissioner of Land Revenue.

As first respondent without giving any opportunity to advance their arguments dismissed the said revision, they filed the present writ petition seeking a *mandamus* to declare the order of first respondent made in CLR.Ref.No.BCW/3/57397, dated 07-02-1998, as illegal and improper.

3. The main thrust of learned counsel for petitioners is that first respondent – Commissioner of Land Revenue while dismissing the revision on 07-02-1998 has stated that despite the notice to petitioners, petitioners have not chosen to appear before him on 18-10-1997, but according to petitioners the said notice was never served on them.

4. Though a counter affidavit is filed on behalf of respondents, the said aspect is not controverted. The reasoning assigned by first respondent dismissing the revision is as follows:

> "Perused the connected records obtained from sub-ordinate offices and also earlier case file of CLR's Office.
>
> It is seen from the records that the land in dispute was originally assigned in the name of Sub-Collector, Gudur who was heading a Co-operative Joint Farming Society and while the matter stood thus, the MRO. has illegally assigned the same lands to the present revision petitioners. Hence, there was material irregularity committed and the second assignment was ordered to be cancelled. There is nothing wrong in this action of the Joint Collector, Nellore.
>
> The parties have consistently approaching the High Court

> and obtaining stay from the High Court and enjoying the land. It is seen that in 1990 itself, they went to High Court and obtained stay orders and again finally in 1994 they have again gone to the High Court and obtained stay orders and enjoying. Their interest is only to get stay orders and enjoy the lands but not final disposal of the case. It is quite clear that they have no case and they are not willing for final disposal of the case as their purpose will not serve. This type of activity cannot be allowed forever. The revision petition is dismissed and the Collector, Nellore is directed to resume the land and thereafter take steps to assign these lands to eligible landless poor persons."

From the above it is clear that first respondent – Commissioner had not gone into the aspect as to whether the assignment made in favour of petitioners is liable to be cancelled or not.

5. In the above circumstances and having regard to the fact that petitioners are not served with the notices about the hearing on 18-10-1997 and also the fact that first respondent had not dismissed the said revision on merits,

this Court is of the view that the order impugned is liable to be set aside and the matter be remitted to first respondent –Commissioner for fresh disposal in accordance with law. Instead of again issuing a notice to petitioners, this Court is also of the view that the date can as well be fixed now itself and accordingly the date for disposal of the revision is fixed as 23rd April, 2007 and petitioners are directed to appear before first respondent – Commissioner on 23-04-2007 and advance their arguments and if for any reason, first respondent – Commissioner is otherwise busy and the matter is not disposed of on that day, the matter may be disposed of within four weeks thereafter and petitioners in all aspects are further directed to co-operate with the said enquiry and its disposal. Further, as this Court on 21-09-1998 while issuing *Rule nisi*, directed the parties to maintain *status quo* as on that date, the same shall be maintained during the pendency of the

said revision.

6. With the above directions, the writ petition is allowed. No costs.

JUSTICE GOPALAKRISHNA TAMADA

Dt.20-03-2007
GLV